

REMARKS

Applicants have thoroughly considered the Office action dated July 6, 2006 and have amended the application to more clearly set forth the invention. Applicants respectfully request entry of the amendments to the specification as noted above to correct minor typographical errors. Claims 1, 2, 3, 9, and 10-18 have been amended by this Amendment B. Claims 1-18 are thus presented in the application for further examination. Reconsideration of the application as amended and in view of the following remarks is respectfully requested.

Claim Rejections under 35 U.S.C. 112

Claims 2-7, 9, 11-15, and 18 stand rejected under 35 U.S.C. § 112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Applicants have amended claims 2-7, 9, 11-15, and 18 to more clearly set forth the invention. In particular, amended claims 2 and 11 clarify what happens when the identified source does and does not define a property of a media file by reciting, in part, "further comprising retrieving the property defined by the metadata of the identified source of the media file when the identified source defines the property, and retrieving the property defined by the source having the highest priority below the identified source of the media file when the identified source does not define the property." Amended claim 9 now recites, in part, an "advanced stream redirector" to define the acronym ASX, and claim 18 now recites, in part, "a server-side playlist" to define the acronym WSX. In claims 3 and 12, the terms "in the priority identified" have been replaced with "in the prioritized plurality of media file sources" to clearly set forth the subject matter of the claimed invention.

In view of the foregoing, applicants submit that amended claims 2-7, 9, 11-15, and 18 are in compliance with the second paragraph of 35 U.S.C. 112.

Claim Rejections under 35 U.S.C. 101

Reconsideration is respectfully requested of claims 10-18 as being directed to non-statutory subject matter under 35 U.S.C. 101. Applicants respectfully disagree. To further prosecution, however, applicants have amended the claims to specify computer-readable storage medium, a tangible medium. Applicants respectfully submit that the claims, as amended, are directed to statutory subject matter.

Claim Rejections under 35 U.S.C. 102

Claims 1, 3, 4,10,12,13, and 16 stand rejected under 35 U.S.C. § 102 (a) as being anticipated by so called Applicant's Admitted Prior Art (AAPA). A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. (See Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicants submit that each and every element as set forth in the recited claims is not found, either expressly or inherently, in the so called AAPA. Thus, the AAPA does not anticipate the claims.

With respect to claim 1, the Office asserts that the AAPA teaches identifying a source of the media file and displaying the property as defined by metadata of the identified source of the media file. (See Office action at page 5). However, applicants have recognized that such existing systems fail to query multiple media file sources according to an organized sequence (e.g., business rules) in order to identify a source of the media file. In particular, as described in the portion of the present application identified by the Office as AAPA (see application paragraphs [0002]-[0005]), applicants point out that as metadata for a specific media file can be retrieved from a variety of sources, *there is a need for automatically designating a sequence for querying each of such sources to retrieve metadata for such media files*. To this end, amended claim 1 recites, in part, *querying each* of the prioritized plurality of media file sources according to their priority to identify a source of the media file. As described in application, the so called "AAPA" fails to teach or suggest querying each of such sources to retrieve metadata for such media files.

The Office also asserts that the discussion of the last writer wins in the application implies or suggests that querying each of the media file sources according to their priority to identify a property for the media file defined by the metadata of the source of the media file. (See Office action at pages 5 and 6). In contrast to the Office's assertion, the so-called AAPA teaches away from such querying. As described in the present application, some existing systems employ a last writer wins approach when retrieving metadata to display for a media file. That is, in such existing systems, rather than querying each of a plurality of sources, the last version of a particular metadata attribute that was retrieved is the same version retrieved the next time the particular metadata attribute is requested for displaying metadata for the media file. However, as described in the

present application, such systems fail to enforce proper business rules, and fail to recognize that a particular metadata source may be unavailable in the future. (See application page 2, paragraph 5). Accordingly, the so called AAPA fails to teach or suggest each every element of claim 1.

Amended claim 10, recites in part, "querying instruction for *querying each of the prioritized plurality of media file sources* according to their priority to identify a source of the media file." Applicants submit that the so called AAPA fails to teach or suggest each every element of claim 10, for substantially the same reasons the so-called AAPA fails to teach or suggest each every element of claim 1.

Claims 1-4 and 10-13 stand rejected under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent Publication No. 2003/0036948 to Woodward et al. (Woodward). Applicants submit that each and every element as set forth in the recited claims is not found, either expressly or inherently, in Woodward. Thus, Woodward does not anticipate the claims.

Woodward discloses a method for recording a user's audio listening history by receiving a media recording information packet from a client computer and cross-referencing the media recording information packet with a media recording description database and returning a unique serial number for the entry in the media recording description database. A user identifier is recorded together with the unique serial number into a user preference database stored on a server, such that the user preference database provides the subject user's media listening history. Thereafter, users listed in the user preference database who listen to the same media recording can be identified and introduced to each other. See Woodward, paragraph 5. The Office asserts that Woodward teaches querying each of the media file sources according to their priority to identify a property for the media file defined by the metadata source of the media file. Not only does Woodward fail to teach or suggest this claimed aspect, the terms priority and/or prioritize are completely absent from the text of the Woodward Publication.

Moreover, the portion of the Woodward publication cited by the Office, has nothing to do with *querying each of the prioritized plurality of media file sources according to their priority* to identify a source of the media file. Although paragraph 0020 of Woodward discloses that "[a]ssembly of information from various sources is performed within the present invention client program," the assembled information refers to information (e.g., descriptive information about each track) that is collected for the purposes of transmitting to a server program for storage in a database system (e.g., populating a source). In contrast, the present invention discloses a system that provides an improved user experience when *retrieving metadata* associated with various media files

for display when the media files are being played on a media player. In particular the invention queries various potential metadata sources according to a predetermined priority to retrieve and display metadata for the media file being played. As such, the invention allows metadata sources to come and go by retrieving metadata from a preferred source when available, and by retrieving metadata from the next available source in the predetermined priority when a preferred source is unavailable.

Applicants assume the Office cites paragraph 0023 of Woodard as disclosing querying according to priority. However, paragraph 0023 describes a search process between a single database and information about a particular song received from a client program to identify a match. If an exact match is not found, the database system and server software performs a match using commonly known text-search techniques such as preposition removal, case-insensitive matching and number spelling in the same database. In other words, if an exact match is not found in the source, other text searching techniques are used to search the same source. This is clearly distinguishable from *querying each of the prioritized plurality of media file sources* according to their priority to identify a source of the media file as set forth in amended claims 1 and 10. Accordingly, claims 1 and 10 are believed to be allowable over the cited reference.

#### Claim Rejections under 35 U.S.C. 103

Claims 5-7 and 14-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Woodward in view of U.S. Patent No. 6,493,436 to Fowler et al. (Fowler). As discussed above, Woodward fails to teach or suggest *querying each of the prioritized plurality of media file sources* according to their priority to identify a source of the media file as described and claimed and in the present application. Applicants submit that even when combined as suggested by the Office, the cited references fail to teach or suggest all the features of applicants' claimed invention. Thus, *prima facie* obviousness cannot be established. (See MPEP 2142 and 2143).

Fowler discloses a system for avoiding a lack of audio-on-hold in a Private Branch Exchange (PBX). In particular, Fowler discloses monitoring a plurality of prioritized *audio sources* to determine if audio is available from any of the sources. Once an audio source with an audio presence has been found, the present invention connects that audio source to the PBX and uses the audio from that source to provide audio-on-hold to the telephone users at that PBX.

Monitoring a plurality of prioritize audio sources to determine if audio is available from any of the sources is not the same as querying each of the prioritized plurality of media file sources

according to their priority to identify a source of the media file, and displaying the property as defined by metadata of the identified source of the media file. More specifically, Fowler does not disclose "querying" but rather discloses monitoring by using circuitry inside audio-on-hold module 11 provides for an audio sensor which senses each of the audio inputs and detects whether there is an audio presence or an audio deficiency at each of the audio inputs. Applicants respectfully submit that monitoring various inputs to determine whether there is an audio presence to connect a detected source for use as audio-on-hold for telephone users does not teach or suggest querying each of the prioritized plurality of media file sources according to their priority to identify a source of the media file. Thus, even when combined as suggested by the Office, Woodward and Fowler fail to teach or suggest each and every element of claims 1 and 10. As such, independent claims 1 and 10 are allowable over the cited references. Claims 5-7 and 14-17 are dependent claims and are believed to be allowable for at least the same reasons as the independent claims from which they depend.

Furthermore, applicants submit that the selective combination of the Woodward and Fowler references is based on hindsight gleaned from the invention itself rather than from a teaching in the art suggesting their combination. Even if the Office takes into account knowledge available at the time of the claimed invention, the cited art must support the selective combination of the references by suggesting the desirability of making the combination. See Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ 2d 1434, 1438 (Fed. Cir. 1988). Applicants understand that an express, written motivation to combine prior art references need not appear in the references before a finding of obviousness, but may come from the nature of a problem to be solved, leading inventors to look to references relating to possible solutions to that problem. See Ruiz and Foundation Anchoring System, Inc. v. A.B. Chance Co., 357 F.3d 1270 (Fed. Cir. 2004). However, neither an express, written motivation to combine prior art references appears in the references nor is the nature of the problem being solved the same.

In this case, the primary reference, Woodward, discloses a method for recording a user's audio listening history by receiving a media recording information packet from a client computer and cross-referencing the media recording information packet with a media recording description database and returning a unique serial number for the entry in the media recording description database. As described above, Woodward has nothing to do with *querying each of the prioritized plurality of media file sources according to their priority* to identify a source of the media file. The secondary reference, Fowler, not only fails to provide a written motivation to combine prior art

references, but also fails to deal with the problem being solved (i.e., identifying a *metadata source* for a metadata file). Instead, Fowler discloses a system for monitoring various audio inputs connected to various audio sources to determine if audio is available from any of the sources presence, and connecting a preferred source to a PBX for provide audio-on-hold for telephone users. (See column 3, lines 44-66). Not only does Fowler fail to deal with the problem being solved, Fowler has absolutely nothing to do with metadata retrieval. As such, applicants respectfully request that the Examiner remove the rejections of claims 5-7 and 14-15 based on these references, and/or provide some teaching, suggestion, or motivation in the prior art to select and combine the Woodward and Fowler references.

In view of the foregoing, applicants submit that claims 1 and 10 are allowable over the cited art. Claims 2-9 and 11-18 depend from these claims and are believed to be allowable for at least the same reasons as the independent claims from which they depend.

It is felt that a full and complete response has been made to the Office action and, as such, places the application in condition for allowance. Such allowance is hereby respectfully requested. Although the prior art made of record and not relied upon may be considered pertinent to the disclosure, none of these references anticipates or makes obvious the recited invention. The fact that Applicants may not have specifically traversed any particular assertion by the Office should not be construed as indicating Applicants' agreement therewith.

**The Applicants wish to expedite prosecution of this application. If the Examiner deems the claims as amended to not be in condition for allowance, the Examiner is invited and encouraged to telephone the undersigned to discuss making an Examiner's amendment to place the claims in condition for allowance.**

The Commissioner is hereby authorized to charge any deficiency or overpayment of any required fee during the entire pendency of this application to Deposit Account No. 19-1345.

Respectfully submitted



Robert O. Enyard, Jr., Reg. No. 57,780  
SENNIGER POWERS  
One Metropolitan Square, 16th Floor  
St. Louis, Missouri 63102  
314/231-5400